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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF L.A.P.,)
BARBARA PARSONS, Mother, WILLIE)
PARSONS, Father,)

Appellants-Respondents,)

vs.)

No. 20A03-0608-JV-349

ELKHART COUNTY OFFICE)
DEPARTMENT OF CHILD SERVICES,)

Appellee-Petitioner.)

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Deborah A. Domine, Juvenile Magistrate and
The Honorable Terry C. Shewmaker, Judge
Cause No. 20C01-0406-JT-51

April 30, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Barbara Parsons and Willie Parsons appeal the involuntary termination of their parental rights with respect to their minor child, L.P. They present the following restated issues for review:

1. Was the evidence sufficient to prove that the conditions resulting in L.P.'s removal and placement outside of Barbara's home still exist?
2. Was the evidence sufficient to prove termination of the parent-child relationship was in the child's best interests?
3. Was the evidence sufficient to prove there is a satisfactory plan for L.P. after parental rights are terminated?

We affirm.

Barbara and Willie are the biological parents of L.P., who was born on August 3, 1995. Sometime around 2000, Barbara, who has a long history of mental health and substance abuse problems, telephoned Oaklawn, a mental health facility, and asked for help. At that time, Barbara and L.P. were living in a temporary shelter facility and Barbara's son, thirteen-year-old M.L., had been removed from her custody because Willie and Barbara had abused and neglected him. Rosaline Williamson, an adult case manager at Oaklawn, began working with Barbara on an outpatient basis. According to Williamson, "In the beginning, [Barbara] needed a lot of services. So, uh, sometimes I would see her twice a week. There's a few times it's three times a week. And I helped her with housing, Medicaid, First Steps, social security." *Transcript* at 123. After undergoing extensive counseling and inpatient treatment at Oaklawn, M.L. was reunified with Barbara in January 2002.

Sometime around June 1, 2003, Barbara was placed at the Center for Behavioral Medicine at Elkhart General Hospital “as a result of mental health and addictions issues.” *Exhibits*, State’s Exhibit 3. Also on or about June 1, 2003, the Elkhart County Office of Family and Children (ECOFC) and the Goshen Police Department opened investigations into allegations that L.P. had been molested after L.P. was discovered to have rectal bleeding. L.P. originally alleged that Willie had kicked her and then inserted his finger into her rectum. Over time, however, L.P. recanted the accusation against Willie and claimed the bleeding was caused by a difficult bowel movement. We note also that, at the time of the final hearing, M.L. had admitted molesting L.P. in 1998 and was alleged to have done so again in 2000.

Following an investigation, a hearing was conducted and L.P. was found to be a Child in Need of Services (CHINS). On October 23, 2003, Barbara and Willie were ordered to participate in certain specified services. Barbara agreed to do so and thereafter participated in some, but not all, of the court-ordered services. Willie initially agreed to abide by the court’s order, which directed him to: (1) complete a parenting assessment, (2) submit to a Mindsight Polygraph examination, and (3) complete an anger management assessment. Ultimately, however, he refused to cooperate with any of the services. A December 11, 2003 Order on Status Review of Father’s Compliance contained the following report concerning Willie:

1. Willie Parsons has failed to follow through with *any* of the court ordered assessments.

2. Willie Parsons has failed to provide proof of completion of any assessments in the past similar to those assessments now ordered.
3. Instead, Willie Parsons has made threats to the assigned ECODFC case manager.
4. Willie Parsons has made threatening calls to the Superior Court No. 2 where custody was previously addressed under a divorce proceeding.

Appellee's Appendix at 21 (emphasis in original) (internal citation omitted).

The ECOFC filed a petition to terminate Barbara's and Willie's parental rights. The petition was granted after a July 7, 2006 hearing. Following are relevant findings and conclusions from the termination order:

- e. Here, Willie Parsons' refusal to cooperate coupled with the facts of this case support the finding that the continuation of the parent child relationship poses a threat to [L.P.]. On April 14, 2003, [L.P.] alleged that her father kicked her, and stuck his finger in her rectum. While medical professionals substantiated physical evidence of abuse, there was never enough evidence to conclude whether [L.P.] was abused by her father or brother. There were, nonetheless, previous substantiated allegations of abuses perpetrated by Willie Parsons against his stepson, [M.L.]. And there was testimony from [L.P.]'s therapist, Jennifer Lillich, that the child identified her father as an "unsafe" person.
- f. Thus, the risk posed by Willie Parsons to his daughter must be evaluated; toward that end the services ordered for Mr. Parsons were all intended to evaluate the level of risk Mr. Parsons did or did not pose to his daughter and in turn aid in the identification of further services necessary to diminish any identified risk. Willie Parsons [sic] refusal to participate in services ordered supports a finding that the conditions that resulted in the child's removal from the home will not be remedied and a continuation of the parent child relationship poses a threat to the well being of the child.
- g. The court has considered, but is unpersuaded by the testimony of Willie Parsons that he is now willing to participate in court ordered services. Mr. Parsons has had thirty-seven [37] months to attend to

his child's needs by following through with court orders. He has paid child support, but he has failed over and over to participate in assessments necessary to identify and eliminate risk to the child. The CASA stated, and the court agrees, that childhood is passing [L.P.] by as she waits for a resolution of this case. Thus, the court also finds that the delay perpetrated by father is further indication that he has failed to act in his child's interest and, therefore, a continuation of the parent child relationship poses a threat to [L.P.] [sic] well being.

- h. Barbara Parsons has attempted to cooperate with court ordered services, but she too has failed to fully comply. More important, while treatment providers were unanimous in noting that Barbara Parsons loves her daughter, each of the providers who were called to testify expressed serious doubt that Barbara Parsons would be able to keep her daughter safe, if [L.P.] is returned to her mother's home.
- i. [L.P.] has been the victim of child molestation on multiple occasions while living with her mother. And even after three years of services and [L.P.]'s three years absence from her mother's home, Roz Williamson, the Oaklawn Adult Case Manager assigned to Barbara Parsons, plainly stated that she did not believe that Barbara Parsons can provide a safe environment for her daughter; [L.P.]'s therapist, Jennifer Lillich, expressed concerns that Barbara Parsons cannot provide her daughter with either safety or stability, key facts, accordingly [sic] to Lillich, in the child being able to grow into a healthy adult; DCS case manager, Roger Zum Felde, acknowledged that Barbara Parsons does a good job parenting during a limited visit, but he expressed concerns about her present ability to supervise and protect [L.P.]; and Mary Arnott, Barbara Parsons' therapist, also expressed the opinion based upon her work with Barbara that Barbara Parsons is presently unable to keep her child out of "harm's way."
- j. According to therapist Arnott, Barbara Parsons has only recently resumed treatment and will require an additional 2-5 years of work before she will be able to adequately care for her child.
- k. Barbara Parsons admits that she needs more time in treatment; Barbara stated during her testimony that, "you can't put a time limit on mental health." The court agrees, but finds that there is a time

limited [sic] on being a child. The court finds further that continuing the parent child relationship to give her mother more time to get well, and potentially forcing [L.P.] to spend her entire childhood in the care of the state would be adverse to her well-being.

1. The Lifeline Youth and Family Services Intensive Interview Process Report, Exhibit #4, indicates that both parents, Barbara Parsons and Willie Parsons, are at a high risk to perpetrate future child abuse.

Appellant's Appendix at 12-14. The court determined that termination was in L.P.'s best interests and terminated the parent-child relationship with respect to Barbara and Willie, both of whom appeal termination.

Our court has deemed the involuntary termination of parental rights as “the most extreme sanction that a court can impose.” *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999). This does not overstate the matter, because termination severs all rights of a parent to his or her children. *In re L.S.*, 717 N.E.2d 204. For this reason, termination is to be viewed as a last resort, to be pursued only when all other reasonable efforts have failed. *Id.* Parental rights are not terminated in order to punish the parents, but rather to protect their children. *Id.* Thus, although parental rights are of a constitutional dimension, they may be terminated when the parents cannot or will not fulfill their parental responsibilities. *Id.*

In order to effect the involuntary termination of a parent-child relationship, the State must present clear and convincing evidence establishing the elements set out in Ind. Code Ann. § 31-35-2-4(b)(2) (West, PREMISE through 2006 Second Regular Session). Those elements are:

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied;
or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

The issues presented by Barbara and Willie challenge the sufficiency of evidence supporting the termination of their parental rights with respect to the three elements the ECOFC must prove in order to justify termination. In determining whether sufficient evidence supports the termination of parental rights, as is the case with other sufficiency challenges, we neither reweigh the evidence nor judge the credibility of witnesses. *In re Involuntary Termination of Parent Child Relationship of A.H.*, 832 N.E.2d 563 (Ind. Ct. App. 2005). We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.* We will not set aside an order terminating parental rights unless it is clearly erroneous. *Id.*

In undertaking our analysis, we note that both Barbara and Willie challenge the court's determination with respect to each of them, and that the evidence pertaining to each is separate. Therefore, we will address termination element-by-element, first with respect to Willie, then with respect to Barbara.

1.

Barbara and Willie contend the evidence was not sufficient to prove that the conditions resulting in L.P.'s removal and placement outside of the Parsons' home still existed.

L.P. was removed from Barbara's home because she was the victim of abuse. Initially, L.P. reported that Willie kicked her and then inserted his finger into her rectum. A physical examination confirmed that she exhibited rectal bleeding. During the months and years that followed, however, L.P. changed her report of what had occurred, thereby apparently exonerating Willie of that charge. Nevertheless, it is apparent from the testimonies and reports of the various social services providers that there remains a question in their minds as to whether Willie did, in fact, molest L.P. This assessment is based in part upon Willie's history of abusing M.L., in part upon Willie's consistent refusal to submit to a polygraph examination and to participate in services, and in part upon his psychological assessment. With respect to the latter, an in-depth evaluation was performed by Ruth Shasteen, a licensed mental health counselor for Lifeline Youth and Family Services. After conducting the evaluation, Shasteen prepared a report. With respect to Willie, the report stated, in part, as follows:

His personality is best described as antisocial and probably paranoid. He is a very controlling man who seems to believe that rules do not apply to him. He overestimates his [sic] intelligence and cleverness and feels that he can charm and talk his way out of difficult situations. His high self-appraisal and sense of entitlement in life prevent him from honestly confronting how he contributes to relationship problems. He prefers to present himself as a victim of other people and of the system so that he does not have to

confront the effects of his own behavior. He seems to enter relationships strictly for his own self-gain and offers little cooperation. Although his invalid CAPI protocol is not able to give an objective measure of his risk for child maltreatment and child physical abuse, past behavior gives indications of high risk. These indicators include violent behavior in the past, a history of drug and alcohol addition, presence of long standing psychopathology, his inability to give specific examples of appropriate child discipline, his unwillingness or inability to acknowledge how his own behavior contributes to family discord and emotional problems of other family members and his apparent history of delusions or at least extreme suspiciousness.

* * * * *

Willie Parsons by documentation and during the assessment has evidenced grave cognitive issues related to distorted thinking which requires resolution. ... Willie has a history of violating sexual boundaries including Barbara's allegations of sexual abuse during their marriage, the relationship with lower ranking female during Willie's Army tour, and allegations of an inappropriate sexual advance to [a named woman] two months ago per Barbara's report. ... During this assessment process, Willie agreed to participate in a Psychiatric Evaluation and Psychosexual Assessment but later became belligerent [sic] when the supervised visit with [L.P.] was not produced quickly enough and refused to cooperate with any recommendations. Willie reported his unwillingness to comply with anything and stated the only thing he was willing to do was receive unsupervised visits with [L.P.]. Willie did exhibit hostility in reporting his wish to "blow up the entire planet" and his threat to "sue the Prosecutor's office for allowing Welfare to run their office," along with subtle threats to include Barbara and this Therapist in the lawsuit as well. Willie also exhibited an attitude of hostility toward [L.P.] in referring to [L.P.] as his "Judas" and noting upon specific questioning that he feels [L.P.] "betrayed" him. Willie's lack of cognitive and emotional stability create a danger for others in general, but specifically for [L.P.] whose paternal needs could not be met by Willie and who could be at risk for potential revictimization.

State's Exhibit 4 at 11, 32-34. At the conclusion of the report, it was recommended that "no female service provider be unaccompanied in the presence of Willie Parsons", and that his parental right to L.P. be terminated. *Appellee's Appendix* at 56. In addition to the foregoing, the trial court's records indicate that Willie "made threats to the assigned

ECOFC case manager”, *id.* at 20 and “has made threatening calls to the Superior Court No. 2” in relation to this case. *Id.* at 21.

The foregoing reveals that Willie is a cognitively and emotionally unstable person with a consistent history of aggressive and even violent behavior, including violence against children. He exhibits psychopathology that includes “grave cognitive issues related to distorted thinking”, *State’s Exhibit 4* at 32, and is described as delusional and paranoid. Adding significantly to the problem, Willie has steadfastly refused even to acknowledge, much less address, the emotional and behavioral issues that prompted authorities to restrict his contact with L.P. *See, e.g., In re D.J.*, 755 N.E.2d 679, 684 (Ind. Ct. App. 2001) (“the trial court can also reasonably consider the services offered to the parent ... and the parent’s response to those services”), *trans. denied*. After reviewing the evidence, we are satisfied that, with respect to Willie, the State carried its burden to prove that the conditions resulting in L.P.’s removal and placement outside of the Parsons’ home still existed.

The evidence relating to Barbara on this element reveals that she was more cooperative than Willie in participating in services and attempting to comply with the identified criteria for reunification with L.P. Unfortunately, her issues ultimately proved too much to overcome. After standardized testing, a parenting assessment prepared for this case by Dr. Anthony Berardi, a clinical psychologist, described Barbara’s intellectual ability as “possible borderline mentally handicapped functioning.” *Appellee’s Appendix*

at 30. In addition, Barbara continues to experience significant and chronic emotional and mental health issues. According to the Dr. Berardi's report:

Barbara has had a history of [Post-Traumatic Stress Disorder] based on her childhood abuses, and she has a history of Major Depression. Present testing tends to corroborate the presence of significant Axis I and II disorders. Although Barb tends to present well, her testing does not conceal the seriousness of her psychiatric problems. The impairment in functioning that results from profiles such as hers would make it extremely difficult for her to function in a stable, consistent manner and adapt to a work environment. She is very vulnerable to stress and would tend to falter significantly with any full time responsibilities. Her physical and psychiatric difficulties include disorders that in combination are difficult to contain particularly under stress. Also, Barb is not only dealing with acute conditions that can flare up readily under stress, but she is also dealing with chronic, enduring personality problems that are difficult to change. These include difficulties that predispose her to getting and remaining involved with abusive, and controlling substance abusing men and difficulties setting and maintain [sic] boundaries due to fears of being along [sic], abandoned, and unable to cope on her own as an independent, well-functioning adult.

Id. at 32. The assessment report also notes that Barbara is at significant risk of future drug and alcohol abuse, and that her ability to provide for L.P. by “maintaining a regular stream of income” presents a “great obstacle.” *Id.* As the last line reproduced above indicates, however, most troubling of all is Barbara's inability to shield L.P. from the abusive men with whom Barbara regularly associates. Dr. Berardi described it thus:

But perhaps the most foreboding concerns relate to Barb's obvious inability to keep Willie and others like him out of her life and afford her daughter the protection that she requires. Simply stated, Barb cannot be relied upon over an extended period of time to sustain the type of independent functioning that would enable her to protect her daughter from other potentially abusive men. She is very vulnerable to regress to involvement in dysfunctional and abusive relationships, and this would most likely occur over time after the OFC was no longer involved with the family. Even now, when Barb knows everyone is watching, she continues to talk with him by telephone and

admitted that for several reasons it would be difficult to completely let go. Given the antisocial attitudes noted in this Barb's [sic] evaluation and the severity of her psychiatric problems, this examiner would not put much weight on any of Barb's promises to put [L.P.]'s needs first and to maintain that focus over time.

Id. at 32-33. Dr. Berardi's report was consistent with the testimony of others who provided social services to Barbara in an effort at reunification.

As a final note on this issue, we understand that both Willie and Barbara are claiming on appeal that they and their circumstances have changed with respect to the issues that prompted the ECOFC to remove L.P. from the home. We have held that a trial court may evaluate a parent's habitual pattern of conduct in determining the probability of future negative behavior. *See, e.g., In re D.J.*, 755 N.E.2d 679. It need not wait until a child is irreversibly harmed such that the child's physical, mental, and social development are permanently impaired before terminating the parent-child relationship. *Id.* The evidence set forth above reflects that Willie and Barbara may occasionally make small changes in their behavior and lifestyles, but the overall patterns of their lives, at least in those respects relevant to the decision whether to terminate parental rights, have not changed. The evidence was sufficient to prove that the conditions resulting in L.P.'s removal and placement outside of the Parsons' home still exist.

2.

Barbara and Willie contend the evidence was not sufficient to prove termination of the parent-child relationship was in L.P.'s best interests.

The best interests of the child are the ultimate concern in termination proceedings. *Castro v. State Office of Family & Children*, 842 N.E.2d 367 (Ind. Ct. App. 2006), *trans. denied*. In this case, in addition to the evidence reviewed in deciding Issue 1, the recommendations of the various case workers and L.P.'s guardian ad litem support a finding that termination is in the child's best interests. Roger Zum Felde was the case manager in charge of L.P.'s CHINS action. He testified in some detail concerning the efforts made at reunification and noted that those efforts ultimately were ineffective. At the conclusion of his testimony, he testified that termination was in L.P.'s best interest. Reva Noel was appointed as L.P.'s court-appointed special advocate, or CASA. She testified that, in her opinion, termination of Willie's and Barbara's parental rights was in L.P.'s best interest. Jennifer Lillitch, a therapist with Lincoln Therapeutic Partnership who, at the time of the termination hearing had been L.P.'s private therapist for five years, also opined that termination was in L.P.'s best interest. In light of and in combination with the evidence discussed in Issue 1 above, Zum Felde's, Noel's, and Lillitch's testimonies are sufficient to prove that termination of Barbara's and Willie's parental rights is in L.P.'s best interests.

3.

Willie and Barbara contend the evidence was not sufficient to prove there is a satisfactory plan for L.P. after parental rights are terminated.

In order to terminate the parent-child relationship, the trial court must find there is a satisfactory plan for the care and treatment of the child. *See* I.C. § 31-35-2-4(b)(2)(D).

This plan need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated. *In re Termination of Parent-Child Relationship of D.D.*, 804 N.E.2d 258 (Ind. Ct. App. 2004), *trans. denied*. At the time of the termination hearing, L.P. was living with a foster family, but L.P.'s half-sister was "in the process of being licensed through the foster parent program and would be interested in adoption." *Transcript* at 105. The ECOFC's plan was for L.P. to be adopted, either by her half-sister's family or another family, thereby offering a plan that gave a general sense of direction for L.P.'s care and treatment.

The trial court's finding that the ECOFC has a suitable plan for L.P.'s future care, i.e., adoption, is not clearly erroneous. *See, e.g., In re Termination of Parent-Child Relationship of D.D.*, 804 N.E.2d at 268 (holding that sufficient evidence of a satisfactory plan existed where adoption was the general plan and "the foster parents were interested in adoption but were not ready to make a final decision").

Judgment affirmed.

BAKER, C.J., and CRONE, J., concur.